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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,601	10/16/2003	Derek J. Webb	2674-103	5151

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NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

EXAMINER

LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/685,601

Applicant(s)

WEBB, DEREK J.

Examiner

Benjamin H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 091704.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Double Patenting

1. Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No.

6,481,719 in view of Campbell.

2. U.S. Patent No. 6,481,719 discloses many of the steps recited in claims 1, 22 and 23. The only step recited in these claims that U.S. Patent No. 6,481,719 lacks is "resolving said side wager hand based on a numerical total of said side wager hand".

3. The patent to Campbell discloses a card game wherein a player places wager to play blackjack, and places a numerical point total side wager 12 to play a numerical total game, see col. 5, lines 29- 32. Three cards are dealt to the player, and the point value total of the three cards are determined. If a player's hand adds up to 29, 30 or 31, that player wins the side wager. Players' hands having point totals over 31 lose. In view of such teaching, it would have been obvious to modify the game of U.S. Patent No. 6,481,719 such that the 3-card Poker wager would have been changed to numerical point total side wager, wherein a player hand wins the point total side wager if the player receives cards totaling 29, 30 or 31. This modification would have made the game of U.S. Patent No. 6,481,719 more exciting to play.

4. In regard to claims 3-10, 12, 14-17, determining exactly whether the point total is higher or lower than a predetermined value is simply a casino business decision.

Furthermore, concerning claims 7 and 8, determining exactly what the predetermined

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point number should be, and what hand rank should be, would have also been a casino business decision.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Schorr et al.

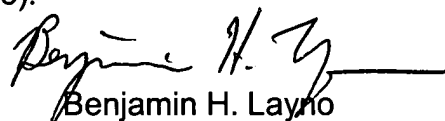
The patent to Schorr et al discloses an apparatus for playing a card game. The game comprises a dealing shoe and decks of card in the dealing shoe for dealing at least one hand of two cards to a player and a card to a dealer, areas 28 and 30 for forming a side wager hand wherein at least two cards are dealt in area 28 and at least one card is dealt in area 30, betting areas 22, 24 and 26 for resolving the side wager hand based on a numerical total of the side wager, and rules for continuing with a Blackjack game.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Lyfoung discloses a card game wherein a three card poker hand is formed using two cards dealt to a player and one card dealt to the dealer, and a side wager is resolved. The patent to Lizak and Otuzbiryman disclose poker games wherein the point values of the players' hands are totaled, point totals over 30.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3712

bhl